

Technical Assistance Bulletin

April 2005

Ward Sexual Misconduct

Supervisor's Reference

As a supervisor, your responsibility is to provide a safe and productive environment for staff and wards.

Prevention, intervention and taking action are key concepts in meeting your responsibilities as a supervisor and is particularly critical in the

area of sexual misconduct. After an incident, people's emotional and physical recovery and well-being have a direct correlation to how they are treated during and after the incident.

So....

What do you do? How do you respond to a staff who reports any of the following?:

A ward handed them a sexually explicit letter addressed to the staff.

A ward bumped into the staff on several separate occasions.

A ward exposed themselves to the staff in front of other wards.

A ward drew a sexual suggestive cartoon and put the cartoon on the staff's desk.

WHAT IS WARD SEXUAL MISCONDUCT?

These scenarios are all examples of ward sexual misconduct as defined by Institutions and Camps Manual Section:

Written - suggestive or obscene letters, notes and invitations

Verbal - graphic verbal commentaries about an individual's body, sexually degrading words used

to describe an individual, sexual propositions, slurs, jokes, epithets, comments about sexual prowess or activity, suggestive remarks regarding attire

Physical - gestures or movements with body parts which have sexual connotations, suggestive touching, impeding or blocking movement, assault

Visual - leering, display of sexual suggestive objects, videos, cartoons, posters

Sexual Battery - grabbing or touching an intimate part of another person, as defined in Penal Code 243.4 (d) (1).

WHAT IS THE IMPACT OF WARD SEXUAL MISCONDUCT?

Ward sexual misconduct can affect individual staff, their family, co-workers, other wards, and the department. Ward sexual misconduct can affect laws, policies and procedures.

The information listed below is intended to provide an overview of common effects of ward sexual misconduct. Supervisors will increase their success in responding to incidents by recognizing that individual responses may be different than those listed below.

Staff

The staff who is victimized by a ward may experience emotional harm as well as physical harm. Thoughts and feelings that occur during and after an incident can be more distressing than being touched or grabbed.

In most instances, the physical incident is over fairly quickly. The troublesome thoughts and feelings are just beginning:

"Why me, what did I do?"



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"I'm angry!"
"What should I have done?"
"How far would the ward have gone?"
"Will the ward do it again?"
"What are other wards thinking?"
"Will anyone believe me?"
"What will my co-workers think?"
"I feel helpless."
*"Am I going to have to write this all down
 and talk about it?"*
"Will the ward be held accountable?"
"Do I stay at work?"
"How do I go back and face the ward?"
"Do I tell my family?"
"This is embarrassing."

Staff may worry about their personal safety whether a ward touched them inappropriately or made sexually suggestive statements. Staff may be afraid to see or interact with the ward who victimized them because they anticipate re-victimization or because the staff may have retaliatory feelings. Humiliation is a common feeling if the incident is sexual in nature. Based on years of service, length of time at their workplace, confidence level and support systems, staff may doubt their ability to carry out their duties or doubt their credibility.

Co-workers

Ward sexual misconduct can have an affect on co-workers whether they observe an incident or are told about an incident. Co-workers may begin to doubt their own safety and their ability to carry out assigned duties. They may change their thoughts and feelings about the ward or wards in general.

Co-workers may be less than sympathetic or understanding.

Co-workers may feel at a loss as to how to help the affected staff. The affected staff may not want to discuss the incident or withdraw from the social environment at work. Co-workers may feel the situation is not being addressed appropriately and become frustrated or opinionated. These feelings can lead to distractions on the job, communication problems and friction between both co-workers and supervisors.

Wards

Wards who observe sexual misconduct or hear about an incident may use the opportunity to also act out. Some wards will know the behavior is inappropriate however they will rationalize that "everyone else is doing it" and victimize other staff. Wards with less capacity for knowing right or wrong, may "mimic" the inappropriate behavior as they "mimic" other behaviors. Other wards who disapprove of ward sexual misconduct may have good intentions but act out in an inappropriate manner to stop wards' behavior and/or to protect a staff member.

Ward sexual misconduct can have a serious impact on wards' thoughts and behaviors, which in term can create an unsafe setting.

Department

Ward sexual misconduct incidents can create significant administrative, legal and budgetary issues. The occurrence of incidents and the response to incidents invites the scrutiny of outside agencies and the public.

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 can affect staff, their
 families, co-workers,
 other wards, and the
 department.*

SUPERVISOR'S ROLE

When preventing, intervening in or responding to a ward sexual misconduct incident, a supervisor's role may feel complex and sometimes overwhelming. You probably feel like you have limited time, limited resources and possibly limited information.

What do I say to the staff to help them?
What's the law?
Is this behavior defined in policy?
What immediate action do I need to take?
What resources do I have to give them?
Who do I need to report this to?
*How do I find time to talk to the staff
 uninterrupted?*
Can this incident be prosecuted?
What can I do to stop this?

The following information will assist you in gaining awareness, information, and skills to make your responsibilities a little less daunting.

Prevention Strategies

- ♦ Establish open communication with staff prior to an incident.
- ♦ Know laws and policies related to ward sexual misconduct.
- ♦ Ensure work environment is professional.
- ♦ Confront “joking” and “sexplay” incidents.
- ♦ Treat incidents seriously.
- ♦ Provide and monitor staff orientation and training.
- ♦ Provide and monitor ward orientation.
- ♦ Analyze individual and living unit incidents and informal complaints.
- ♦ Work with Equal Employment Opportunity (EEO) office on Department trends, problems and resolutions.

Intervention Strategies

- ♦ Maintain communication with staff.
- ♦ Treat the incidents seriously.
- ♦ Know laws and policies related to ward sexual misconduct.
- ♦ Track and analyze individual ward behavior.
- ♦ Ensure wards are confronted directly about their behavior.
- ♦ Ensure appropriate treatment interventions are made.
- ♦ Ensure wards' behavior is properly documented.

Response Strategies

- ♦ Maintain communication with staff.
- ♦ Treat the incidents seriously.
- ♦ Know laws and policies related to ward sexual misconduct.
- ♦ Make appropriate referrals to DDMS/Court prosecution and track to ensure timely processing.
- ♦ Report incident through chain of command.
- ♦ Ensure wards are held accountable for behavior. Options may include:
 - DDMS/Court
 - Program re-assignment
 - Psych referral/services
 - Case conference
 - Resource groups

- Develop a treatment plan and document. For successful felony charges and/or sex offender registration, the court may require a treatment accountability plan.
- Staff/Offender mediation (if appropriate).

- ♦ Make appropriate referrals to Employee Assistance Program (EAP).
- ♦ Make appropriate referrals to site EEO counselors.
- ♦ Prepare injury report if appropriate.

Communication Tips:

It pays to know how to communicate with staff before an incident occurs as there are so many less variables, distractions and emotions present during a routine conversation. Talk with staff about their views and reactions to ward behavior. Talk with staff about their views about ward accountability and treatment. Talk to staff about how they may react to sexual misconduct and what their needs may be.

Before talking to staff, prepare:

- ♦ Have accurate information about staff's rights and options.
 - Will the staff's shift or work location be changed?
 - Does the ward meet the TD criteria?
 - Has the ward been placed on TD?
 - Has the ward been mirandized?
 - Will the ward be moved or restricted from classes or work assignments?
- ♦ Attempt to arrange an appropriate place to talk to the staff.
 - Is the setting fairly private?
 - Attempt to reduce the number of interruptions.
 - Does the area have a phone in the event the staff wants to call a family member, friend or support person?
- ♦ The staff may prefer to speak to another supervisor or same gender individual.
 - Have options available if possible.
- ♦ Ensure resources are available:
 - Have copies of current labor relations phone numbers.
 - Have copies of EAP brochures.
 - Have EEO counselor phone numbers.

TECHNICAL RESOURCES

To best assist staff, hold offenders accountable and conform with legal mandates/policies supervisors should refer to:

Title 15

Sexual Harassment Prevention Policy (I&C Manual Section 2650-2662)

Staff As Victims (Youth Authority Administrative Manual Section 5260-5263)

Ward Orientation (I&C Manual Section 4015)

DDMS (I&C Manual)

Penal Code Section 314

Youth Authority Manual Section 6200

When talking to staff:

- ♦ Listen.
- ♦ Look for noticeable emotions.
- ♦ Acknowledge their feelings.
 - Do: "You said you are very upset and I can understand why."
 - Don't: "You must be upset, I would be."
 - Do: "It's okay to be angry or to cry."
 - Don't: "Don't be so emotional."
 - "You must want to cry right now."
- ♦ Ask them what they need or want.
 - "Do you feel comfortable talking to me about what happened?"
 - "Would you like to have someone else present?"
 - "What do you need right now?"
 - "What do you want to have happen short term?"
 - "What do you want to have happen long term?"

- ♦ Present the possibilities, don't promise.
- ♦ Explain the need for prompt, factual and detailed information.
- ♦ Document your discussion.

Follow up with staff:

- ♦ Coordinate with Superintendent's Office and Return to Work Coordinator to maintain communication.
 - Address return to work issues and concerns.
 - Provide EAP referrals.
- ♦ Maintain verbal and written communication about the ward's institution status.
 - Notify staff prior to ward being released from TD status.
 - Notify staff prior to wards return to a living unit, classroom or work assignment.
 - Notify staff immediately of any threats or apologies from wards.

- Explain limitations on program re-assignment such as wards' age, gender, gang affiliation and program needs.
- ♦ Maintain verbal and written communication about the wards' discipline status.
 - Notify staff of DDMS process, hearings and outcome.
 - Notify staff of court proceedings.
 - Notify staff of the write to submit a victim impact statement for court proceedings.
 - Notify staff of right to request to attend court hearing.
- ♦ Follow up with staff if they want to initiate an Effective Interaction (EI) session with the ward.
- ♦ Refer staff to Office of Victim and Survivor Services (formerly OPVS) for victim notification. (YAM 5260-5263)
- ♦ Document interventions in staff's personnel file.

RESOURCES

California Youth Authority - Labor Relations/Employee Assistance/Safety Office
(916) 262-1447

Employee Assistance Program (EAP)
1-800-632-7422

California Youth Authority - Legal Office
(916) 262-1465

California Division of Occupational Safety and Health (CalOsha)
(415) 703-5100

Workplace Violence Research Institute
(760) 416-1476
www.workviolence.com

For additional information, please contact the Institutions and Camps Branch
(916) 262-1530

REMEMBER....

The prevention, intervention and response to ward sexual misconduct sends a message to wards and helps to keep staff safe. Appropriate and timely responses and resolution can assist staff in feeling supported, staying on the job and being productive. Your awareness and response as a supervisor is critical.